

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

CADLEROCK JOINT VENTURE II, L.P.	:		
	:		
	:		
Plaintiff,	:	No. 3:07 mc 26 (MRK)	
	:		
v.	:		
	:		
BARBARA J. MILAZZO	:		
	:		
	:		
Defendant.	:		

RULING

Currently pending before the Court is Defendant Barbara J. Milazzo's Motion for Leave to Appeal [doc. # 1]. For the reasons that follow, the Court DENIES Ms. Milazzo's motion.

Ms. Milazzo seeks leave to appeal the denial of her motion to dismiss by the Bankruptcy Court. *See id.* at 1. The denial of a motion to dismiss is not a final order and therefore any appeal would be interlocutory. *See MasterCard Intern. Inc. v. Visa Intern. Serv. Ass'n, Inc.*, 471 F.3d 377, 383 (2d Cir. 2006). Accordingly, Ms. Milazzo seeks leave to file an interlocutory appeal pursuant to 28 U.S.C. § 158(a). "To determine when a grant of leave to appeal an interlocutory order is proper, courts in this Circuit have adopted the standards pursuant to which courts of appeals may entertain interlocutory appeals from district courts," as described at 28 U.S.C. § 1292(b). *In re AroChem Corp.*, 198 B.R. 425, 427 (D. Conn. 1996).

Section 1292(b) provides that

"[i]n order to permit an interlocutory appeal pursuant to section 1292(b), the order being appealed must (1) involve a controlling question of law (2) over which there is substantial ground for difference of opinion," and the movant must also show that "(3) an immediate appeal would materially advance the ultimate termination of the litigation."

In re Enron Corp., No. 01-16034, 2006 WL 2548592, slip op. at 3 (S.D.N.Y. Sept. 5, 2006) (*quoting* 28 U.S.C. § 1292(b)).

Here, Ms. Milazzo sought to dismiss the Complaint filed against her based on improper service. The Court finds that this issue does not present a controlling question of law nor would its resolution materially advance the ultimate termination of the litigation. *See In re AroChem Corp.*, 198 B.R. at 427.

Therefore, the Court DENIES Ms. Milazzo's Motion for Leave to Appeal [doc. # 1].

IT IS SO ORDERED.

/s/ Mark R. Kravitz
United States District Judge

Dated at New Haven, Connecticut: **February 8, 2007.**